

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

UNITED STATES OF AMERICA §
VS. § CRIMINAL NO. 1:20-CR-023(H)(11)
GABRIEL ALONZO PIERSON §

**REPORT AND RECOMMENDATION ON PLEA
BEFORE THE UNITED STATES MAGISTRATE JUDGE**

This case has been referred by the United States District Judge to the undersigned for the taking of a guilty plea. The parties have consented to appear before a United States Magistrate Judge for these purposes. This Report and Recommendation on Plea is submitted to the court under 28 U.S.C. § 636(b)(3).

A. Recommendation regarding Guilty Plea

Defendant appeared with counsel before the undersigned United States Magistrate Judge who addressed Defendant personally in open court and informed Defendant of, and determined that Defendant understood, the admonitions contained in Rule 11 of the Federal Rules of Criminal Procedure.

Defendant pleaded guilty (under a plea bargain agreement with the government) to Count Six of the nineteen-count Indictment charging Defendant with a violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C), Distribution of Cocaine Base. The undersigned Magistrate Judge finds the following:

1. Defendant, upon advice of counsel, has consented orally and in writing to enter this guilty plea before a Magistrate Judge subject to final approval and sentencing by the presiding District Judge;

2. Defendant fully understands the nature of the charges (including each essential element of the offense(s) charged and penalties);
3. Defendant fully understands the terms of the plea agreement and plea agreement supplement;
4. Defendant understands all constitutional and statutory rights and wishes to waive these rights, including the right to a trial by jury and the right to appear before a United States District Judge;
5. Defendant's plea is made freely and voluntarily;
6. Defendant is competent to enter this plea of guilty;
7. There is a factual basis for this plea; and
8. The ends of justice are served by acceptance of Defendant's plea of guilty.

Based on the above, I recommend that Defendant's plea of guilty be accepted, that Defendant be adjudged guilty, and that sentence be imposed accordingly.

B. Recommendation regarding 18 U.S.C. § 3142(f)(1)(C) - Release or detention of a defendant pending sentence.

The undersigned is in receipt of a Release Status Report to the Court, prepared by the U.S. Probation Officer assigned to this case. The Report indicates that Defendant has met his conditions of pretrial release, and the officer has received no information to cause him/her to believe that Defendant poses a risk of non-appearance or a danger to another person or to the community.

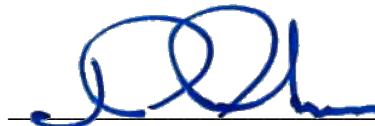
The Report does note, however, that Defendant may be subject to detention pending sentencing pursuant to 18 U.S.C. § 3143(a)(2), as the offense to which Defendant pleaded guilty, 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C), Distribution of Cocaine Base, is an offense described in 18 U.S.C. § 3142(f)(1)(C). Although 18 U.S.C. § 3143(a)(1) authorizes a defendant to remain free on conditions of release subject to a previous order under 18 U.S.C. § 3142(f), such action is expressly subject to a determination that the mandatory detention provisions of 18 U.S.C. §

3143(a)(2) are not controlling.

However, in this case, Defendant expressed a desire to be detained while he awaits imposition of his sentence by the District Judge. He further expressed a desire to waive his rights, under 28 U.S.C. § 636(b) and Fed. R. Crim. P. 59, to object to this Report and Recommendation within fourteen (14) days to allow the District Judge to immediately adjudge him guilty and order him to report for detention or otherwise be detained. Defendant's attorney made an oral motion to waive the fourteen (14) day objection period. The undersigned examined Defendant and ensured he understood his right to the fourteen (14) day objection period. Being satisfied that Defendant understood that right and wished to waive it after consulting with his attorney, the undersigned found that Defendant knowingly and voluntarily waived his right to object to this Report and Recommendation within fourteen (14) days.

Accordingly, if the District Judge accepts this Report and Recommendation, it is the further recommendation of the undersigned that the District Judge adjudge Defendant guilty without regard for the fourteen (14) day objection period and order Defendant to immediately report for detention pending imposition of his sentence.

Signed on September 23, 2020.



JOHN R. PARKER
UNITED STATES MAGISTRATE JUDGE